



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUL 18 2016

Mr. Scott Mandirola, Deputy Cabinet Secretary
West Virginia Department of Environmental Protection
601 57th Street
Charleston, West Virginia 25304

RE: FY 2015 CWSRF Program Evaluation Report

Dear Mr. Mandirola:

This Program Evaluation Report (PER) is the U.S. Environmental Protection Agency's (EPA) evaluation of the West Virginia Department of Environmental Protection's (WV DEP's) Clean Water State Revolving Fund (CWSRF) program. The PER summarizes our evaluation performed and identifies strengths and opportunities for improvement in the CWSRF program. The review covered the period July 1, 2014 through June 30, 2015. EPA conducted its on-site review from May 24 to 25, 2016.

No action items for WV DEP or EPA were identified in the FY2015 review.

Purpose and Scope

The FY 2015 annual review of West Virginia's CWSRF program was conducted in accordance with EPA's Interim Final Annual Review Guidance and Region III's Annual Review Plan. The annual review process includes EPA's consideration of WV DEP's Annual Report, evaluation of the State's program, coverage of items in the Annual Review Checklist, completion of the Project File Review Checklists, and issuance of this PER.

The purpose of the annual review is to assess the State's management of the program, including:

- Performance in achieving goals and objectives identified in the Intended Use Plans (IUPs) and the Annual Report;
- Compliance with grant agreements, operating agreement, and regulations;
- Financial status and performance of the Fund; and
- Resolution of audit findings and prior year PER recommendations.



Environmental Benefits

West Virginia's CWSRF program provides financial assistance to improve and maintain water quality throughout the State. The projects financed are vital in protecting and improving water quality in rivers, lakes, and streams throughout the State used for drinking water, recreation, cold-water fisheries, warm water fisheries, wildlife use, industrial use, and agricultural use. The CWSRF program contributes to the joint State/EPA mission of achieving clean and safe water with the following specific goals:

- Eliminate sewage overflows from combined sewer overflows (CSOs) and from separate sewer system overflows (SSOs);
- Improve and protect designated uses of water bodies; and
- Achieve and maintain Clean Water Act (CWA) compliance.

During FY 2015, WV DEP executed 49 loans totaling \$86.9 million. Of the 49 loans, 8 were for wastewater treatment facilities, 3 were agricultural best management practices and 38 were individual homeowner septic system rehabilitations.

Program Pace

The Loans to Funds Available (pace) indicator represents the percent of money available in the CWSRF program which has been committed in executed loans. In FY 2015 WV DEP attained a pace of 100%. WV DEP has identified a pipeline of projects to fund in the future which will ensure continued success in meeting the fund utilization goal rate.

Program Management and Staffing

WV DEP continues to effectively manage the CWSRF program. For the effective management to continue, it is essential that the program be fully staffed with adequately trained employees. In addition, attendance at training courses continues to be included in the programmatic conditions to the capitalization grant. A minimum of two staff should attend the national Council of Infrastructure Financing Authorities (CIFA) conference, Regional All-States Meetings, Need Survey trainings and other SRF related training. These training opportunities are vital to WV DEP staying informed of the numerous changes and continuing developments in the national program.

Project Files Reviewed

EPA reviewed WV DEP's files for the following two projects:

- Keyser closed on 01/29/2015 for \$20,400,000.
- Pea Ridge closed on 10/22/2014 for \$8,156,112.

The project files contained adequate and complete documentation. WV DEP conducts a full technical review and ensures the state environmental review process is completed. WV DEP performs a detailed financial capability review on all new loans and includes this documentation in the file. In addition, a WV DEP engineer or project manager periodically performs site visits during the construction phase of all projects. The project files include all inspection reports. WV DEP demonstrates continued overall sound management in its projects.

Compliance Requirements

EPA reviewed various documents provided by WV DEP to ensure compliance with all of the following requirements:

- Additional Subsidization
- Administrative Costs
- American Iron and Steel
- Annual Report
- A/E Contract Procurement
- Binding Commitments
- Clean Water National Information Management System (CWNIMS)
- CWSRF Benefits Reporting (CBR)
- Cost and Effectiveness
- Davis Bacon
- Federal Financial Accountability and Transparency Act
- Federal Financial Reports
- Fee Income
- Green Project Reserve
- Operating Agreement*
- Payment Schedules
- Readiness-to-Proceed
- Signage
- State Match
- Sustainability Policy
- Timely and Expeditious Use of Funds

*Additional detail provided below

Operating Agreement

The Operating Agreement was last amended in December, 2012. An amendment to this agreement may be needed to reflect changes in references to specific regulations as a result of the new OMB “Super Circular” that went into effect on December 26, 2014. EPA and WV DEP expect to enter into this amendment before September 30, 2016.

Implementation of 2014 CWSRF Amendments

On June 10, 2014 the President signed the Water Resources Reform and Development Act (WRRDA) which included several amendments to the CWSRF program. The final Interpretive Guidance for Certain Amendments in the Water Resources Reform and Development Act to Titles I, II, V, and VI of the Federal Water Pollution Control Act was issued on January 6, 2015. WV DEP has made all required adjustments to its program as summarized in the prior year PER dated July 9, 2015.

In addition, on January 13, 2016, EPA approved WV DEP’s policy for determining which projects are “treatment works.” WV DEP limits these projects to wastewater collection and treatment projects. All other eligible project types will not be considered “treatment works.”

The purpose of the policy statement is to comply with Question and Answer #11 of the Interpretive Guidance for WRRDA which suggests that States should use their best professional judgement to determine whether or not a project is a treatment work, and should document the decision in each project file. WV DEP's policy effectively provides for consistently determining whether or not a project meets the definition of "treatment works." Therefore, this policy statement replaces any need for documentation in every project file. We commend WV DEP for its continued sound management of the CWSRF and implementing changes that have occurred due to WRRDA, while working to improve water quality throughout the State.

Sustainability, Resiliency, and Climate Change

During last year's annual review, EPA held a detailed discussion with WV DEP staff following the 14 page "SRF Sustainability Conversation Guide" dated August 13, 2014. Topics included asset management, planning, alternative analysis, rate structures, green infrastructure, decentralized wastewater systems, green space, energy efficiency, energy audits, renewable energy, water efficiency, water audits, water reuse, consolidations and partnerships, climate change, climate-related planning, climate resilience, security, emergencies, and recovering from extreme weather events.

During this year's annual review, EPA and WV DEP furthered this discussion by focusing on sustainable projects on the Intended Use Plans (IUP) and Project Priority List (PPL). The discussion was focused on the Sustainability tab from EPA's SRF Annual Review Checklist. WV DEP explained that:

- WV DEP considers decentralized systems a major component of their sustainable project pipeline. Types of systems funded include packaged extension plants, individual treatment units, and STEG/STEP systems. There are eight decentralized systems in the project pipeline.
- There are four energy efficient projects in the pipeline which include a WWTP upgrade with energy efficient blowers, biodome installation, and a sewer interceptor construction that will remove 5 pump stations.
- Innovative resiliency measures such as including generators at all WWTP and major lift stations have always been implemented, and are part of WV DEP's technical requirements.
- WV DEP is looking for more ways to expand their sustainable projects pipeline.

Resiliency Indicator

Beginning in FY2016, EPA initiated a new Program Indicator Measure. EPA is interested in State SRF Programs that provide incentives to facilities to incorporate potential climate change impacts or strategies for building resilience to extreme events in new or revised facility plans. Extreme events may include intense precipitation and flood, increasing temperatures and drought.

WV DEP considers many costs associated with addressing potential climate change impacts to be eligible as part of a CWSRF loan. WV DEP encourages current and potential borrowers to incorporate any necessary improvements at their facilities into their project planning and design. In addition, WVDEP requires asset management plans as part of all the projects financed. WV DEP also offers priority ranking points and debt forgiveness to applicants who incorporate green infrastructure elements into their projects.

Cash Transactions Reviewed

For FY 2015, EPA headquarters selected four WV DEP transactions as part of the national stratified sample. EPA Region III staff reviewed the supporting documentation for the cash draws identified in the chart below. All invoices reviewed were found to be properly made for eligible CWSRF expenditures and were appropriately recorded in WV DEP accounting records. No costs were questioned and WV DEP is in full compliance with all regulations.

WV DEP's CS-540001-14 grant was financially closed on October 1, 2015 with the completely accurate federal (83.33%) and state (16.67%) proportionality amounts required, as confirmed by the Federal Financial Report. WV DEP historically has drawn federal cash draws at 83.3 percent which the Region interpreted as compliance with the proportionality regulation of 83 1/3 percent. However, EPA's Questions and Answers on the SRF Cash Draw Proportionality dated September 30, 2013 requires that individual federal cash draws made in a proportional amount less than 83.33 percent be reported to the Office of Inspector General and the Office of Management and Budget as an underpayment of federal funds. Underpayments are defined as an improper payment under the Improper Payments Elimination and Recovery Act (IPERA).

Beginning in SFY 2016, WV DEP increased its draw percentage to 83.33 percent. As a result of the difference between 83.33 and 83.3 percent, WV DEP drew less federal cash than it was entitled to, on an individual cash draw basis. The chart below identifies the amount WV DEP under drew that represents an underpayment. Because the grant is now financially closed at the completely accurate proportional amount and WV DEP has increased its draw percentage to 83.33 percent, there are no questioned costs and no corrective action needed to address these underpayments.

Grant #	Cash Draw		Amount
	Date	Amount	Under Drawn
CS-540001-14	1/5/2015	\$2,592,317.00	\$933
CS-540001-14	11/28/2014	\$ 13,161.00	\$4
CS-540001-14	11/26/2014	\$ 90,419.00	\$32
CS-540001-15	09/29/2015	\$178,457.03	\$0.00
		\$2,874,354.03	\$969

In accordance with EPA's Standard Operating Procedures WV DEP may dispute the Region's determination of an improper payment by submitting an email to the Region 3's Grants Management Officer at White.Lisa@epa.gov or Audit Resolution Coordinator at Fleury.Lorraine@epa.gov or Grants Specialist at Roberts.Douglas@epa.gov within 30 days of receipt of this final PER.

Unliquidated Obligations (ULOs)

Nationally, EPA is concerned with the amount of undrawn grant funds because of the potential for rescission of unexpended funds or reduced appropriations in the next few years. WV DEP continues to follow EPA's first-in-first-out policy of drawing grant funds such that older grant funds are drawn first. As of our review in May, 2016, WV DEP has drawn 100% of

all of its capitalization grants through the FFY 2015 grant resulting in a ULO balance of \$0.00.

Financial Health of the Fund

The financial health of the CWSRF program is good. All municipal loans are secured by system revenues and debt service reserves. Due to the absence of long-term debt, all funds deposited into the CWSRF are available to provide additional financial assistance to improve the State's water quality. To date there have been no municipal loan defaults, although some municipalities are delinquent with respect to deposits of loan reserves totaling \$102,360. That is an improvement over FY 2014, where delinquencies totaled \$146,192. The West Virginia Water Development Authority (WV WDA) actively monitors the delinquent communities on a monthly basis and when necessary, files a complaint with the Public Service Commission of West Virginia for resolution of the deficiencies.

Onsite septic repair projects are administered by the West Virginia Housing Development Fund (WV HDF) and Safe Housing and Economic Development (SHED), Inc. as fiscal intermediaries. In FY2015, there was one Onsite Systems Loan Program loan recipient that declared bankruptcy and was uncollectable. The uncollectable amount of this loan was \$3,706. There were also 18 loan recipients that were over one year delinquent on their repayments to the Housing Development Fund (HDF) in the amount of \$105,565. To ensure the perpetuity of the program, the CWSRF has provided forgiveness funds from the fee account to the WVHDF to ease the burden of these delinquent accounts. There are 36 remaining delinquent accounts with the WVHDF that are delinquent in the amount of \$172,680. SAFE Housing and Economic Development (SHED) has 67 accounts that are delinquent in the amount of \$54,210. The CWSRF continues working with the WVHDF and SHED to reduce the amount through various acceptable procedures.

Prior to this, only eight on-lot loan program loans have ever been written-off. WV DEP has worked closely with the WV HDF and SHED to develop consistent collection procedures to resolve delinquencies in the program.

As of June 30, 2015, net assets were \$673,891,889. That is 3.81% over FY 2014 net assets of \$649,158,258. Included in this amount is \$350,844,816 in loan principal and interest repayments and \$27,422,370 in investment earnings.

Return on Equity (ROE) is a measure of the growth of capital within the CWSRF. The ROE for the CWSRF increased slightly to 0.96% in FY 2015, from 0.54% in FY 2014. The ROE rate is adequate considering WV DEP's CWSRF program generally offers loans to its borrowers with interest rates averaging less than one percent and interest rates on invested funds are near zero percent for the liquidity accounts.

WV DEP periodically performs long-term cash flow modeling and long-term planning of the CWSRF. It is very accurate in projecting the availability of cash flows to fund projects over the next several years.

EPA concludes that WV DEP continues to manage the CWSRF program in a manner that ensures the Fund will be available in perpetuity as a permanent source of financing of water quality infrastructure facilities. This conclusion is based upon a review of the audited financial statements, annual report, the financial management policies and procedures, and all of the following:

- The CWSRF fund account has a strong cash flow;
- Financial management is sound;
- Internal controls are in place;
- Annual independent audits are performed;
- All funds are invested prudently;
- The Public Service Commission performs detailed initial credit analysis and financial capability assessments on all municipal borrowers;
- WV DEP provides strong loan monitoring of borrowers during construction and loan repayments throughout the loan periods;
- State match is deposited in one lump sum when EPA grants are awarded; and
- There is no debt.

Audits of the Fund

On May 9, 2016, the State's independent certified public accountants (CPAs) issued the West Virginia CWSRF audited financial statements. The audit included an unmodified opinion on the financial statements, indicating that they were fairly stated in accordance with generally accepted accounting principles (GAAP). There were no findings or recommendations reported in the audit report.


The FY 2015 West Virginia State-wide Single Audit was issued on May 9, 2016. The CWSRF (CFDA No. 66.458) was included as a major program. There were no findings or questioned costs. The 2014 Single Audit contained one finding that the state corrected.

Prior Year Action Items

2014 There were no action items for WV DEP as a result of the FY 2014 annual review.

Should you have any questions, please contact Kimberly Scharl at 215-814-5428 or me at 215-814-2162.

Sincerely,



Robert F. Chominski, Deputy Associate Director
Office of Infrastructure and Assistance

cc: Kathy Emery, WV DEP

